

**GENERAL ASSEMBLY OF NORTH CAROLINA**  
**SESSION 2019**

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**HOUSE BILL 1173**  
**PROPOSED COMMITTEE SUBSTITUTE H1173-CSBQ-44 [v.9]**  
**06/09/2020 04:50:07 PM**

Short Title: Disapprove/Modify Certain DHHS Rules.

(Public)

Sponsors:

Referred to:

May 22, 2020

A BILL TO BE ENTITLED  
AN ACT TO DISAPPROVE/MODIFY IMPLEMENTATION OF CERTAIN RULES  
ADOPTED BY THE DEPARTMENT OF HEALTH AND HUMAN SERVICES.

The General Assembly of North Carolina enacts:

**DISAPPROVE CERTAIN DHHS RULES.**

**SECTION 1.** Pursuant to G.S. 150B21.3(b1), the following rules, as adopted by the North Carolina Department of Health and Human Services on February 11, 2019, and approved by the Rules Review Commission on April 18, 2019, are disapproved:

10A NCAC 14J .1001 (Medical Plan)

10A NCAC 14J .1210 (Other Areas)

**MODIFY IMPLEMENTATION OF DEFINITIONS APPLICABLE TO JAILS, LOCAL CONFINEMENT FACILITIES.**

**SECTION 2.(a)** Definitions. – "Definitions for Jails Rule" means 10A NCAC 14J .0101 (Definitions), as adopted by the North Carolina Department of Health and Human Services on February 11, 2019, and approved by the Rules Review Commission on April 18, 2019, for purposes of this section and its implementation.

**SECTION 2.(b)** Definitions for Jails Rule. – Until the effective date of the revised permanent rule that the Secretary of the Department of Health and Human Services (Secretary) is required to adopt pursuant to subsection (d) of this section, the Secretary shall implement the Definitions for Jail Rules, as provided in subsection (c) of this section.

**SECTION 2.(c)** Implementation. – Notwithstanding subdivision (56) of the Definitions for Jails Rule, the Secretary shall implement the term "Supervision Rounds" to also include direct visual observation of each inmate from a secure location, unassisted by any electronic device, if an officer determines the in-person check is not advisable due to safety concerns.

**SECTION 2.(d)** Additional Rule-Making Authority. – The Secretary shall adopt a rule to amend the Definitions for Jails Rule consistent with subsection (c) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Secretary pursuant to this section shall be substantively identical to the provisions of subsection (c) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been received as a provided in G.S. 150B-21.3(b2).



1           **SECTION 2.(e)** Sunset. – This section expires when permanent rules adopted as  
2 required by subsection (d) of this section become effective.

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4       **MODIFY IMPLEMENTATION OF CONTENTS REQUIRED TO BE INCLUDED IN**  
5 **JAIL OPERATIONS MANUAL.**

6           **SECTION 3.(a)** Definition. – "Contents of Operations Manual Rule" means 10A  
7 NCAC 14J .0203 (Contents of Operations Manual), as adopted by the North Carolina Department  
8 of Health and Human Services on February 11, 2019, and approved by the Rules Review  
9 Commission on April 18, 2019, for purposes of this section and its implementation.

10          **SECTION 3.(b)** Contents of Operations Manual Rule. – Until the effective date of  
11 the revised permanent rule that the Secretary of the Department of Health and Human Services  
12 (Secretary) is required to adopt pursuant to subsection (d) of this section, the Secretary shall  
13 implement the Contents of Operations Manual Rule, as provided in subsection (c) of this section.

14          **SECTION 3.(c)** Implementation. – Notwithstanding subdivision (20) of subsection  
15 (a) of the Contents of Operations Manual Rule, the Secretary shall implement "suicide prevention  
16 program" to mean established procedures for identifying and supervising suicidal inmates, and  
17 reviewing procedures and debriefing officers following an inmate suicide. The Secretary shall  
18 allow the program to consist of a written document developed by the jail or local confinement  
19 facility that establishes protocols to assist officers in identifying and supervising suicidal inmates.

20          **SECTION 3.(d)** Additional Rule-Making Authority. – The Secretary shall adopt a  
21 rule to amend the Contents of Operations Manual Rule consistent with subsection (c) of this  
22 section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Secretary pursuant to this  
23 section shall be substantively identical to the provisions of subsection (c) of this section. Rules  
24 adopted pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the  
25 General Statutes. Rules adopted pursuant to this section shall become effective as provided in  
26 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as a provided in  
27 G.S. 150B-21.3(b2).

28          **SECTION 3.(e)** Sunset. – This section expires when permanent rules adopted as  
29 required by subsection (d) of this section become effective.

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31       **MODIFY IMPLEMENTATION OF CLASSIFICATION SYSTEM AND DESIGN**  
32 **CAPACITY FOR JAILS, LOCAL CONFINEMENT FACILITIES.**

33          **SECTION 4.(a)** Definition. – "Classification System and Total Design Capacity  
34 Rule" means 10A NCAC 14J .0301 (Classification System and Design Capacity), as adopted by  
35 the North Carolina Department of Health and Human Services on February 11, 2019, and  
36 approved by the Rules Review Commission on April 18, 2019, for purposes of this section and  
37 its implementation.

38          **SECTION 4.(b)** Classification System and Design Capacity Rule. – Until the  
39 effective date of the revised permanent rule that the Secretary of the Department of Health and  
40 Human Services (Secretary) is required to adopt pursuant to subsection (e) of this section, the  
41 Secretary shall implement the Classification System and Design Capacity Rule, as provided in  
42 subsections (c) and (d) of this section.

43          **SECTION 4.(c)** Implementation. – Notwithstanding subsection (b) of the  
44 Classification System and Design Capacity Rule, the Secretary shall implement the Rule to allow  
45 a jail to temporarily exceed its total design capacity when the increase is the result of a sudden  
46 influx of inmates beyond the control of the sheriff or regional jail administrator, and provided  
47 that the sheriff, regional jail administrator or their designee takes reasonable steps to reduce the  
48 inmate population to meet the total design capacity for the jail. The phrase "sudden influx of  
49 inmates" includes, but is not limited to, a large numbers of arrests, sentenced inmates awaiting  
50 transfer to a state prison facility, or inmates serving a weekend sentence.

1           **SECTION 4.(d)** Implementation – Notwithstanding the Classification System and  
2 Design Capacity Rule, the Secretary shall implement the Rule to require that any documentation  
3 concluding the jail exceeded its design capacity specify the total number of inmates awaiting  
4 transport to the Department of Public Safety, Division of Prisons. After calculating the number  
5 of inmates awaiting transport, the jail inspector shall contact the Division of Prisons and report  
6 the number of inmates awaiting transport from the jail to the State prison system.

7           **SECTION 4.(e)** Additional Rule-Making Authority. – The Secretary shall adopt a  
8 rule to amend the Classification System and Design Capacity Rule consistent with subsections  
9 (c) and (d) of this section. Notwithstanding G.S. 150B-19(4), the rule adopted by the Secretary  
10 pursuant to this section shall be substantively identical to the provisions of subsections (c) and  
11 (d) of this section. Rules adopted pursuant to this section are not subject to Part 3 of Article 2A  
12 of Chapter 150B of the General Statutes. Rules adopted pursuant to this section shall become  
13 effective as provided in G.S. 150B-21.3(b1) as though 10 or more written objections had been  
14 received as a provided in G.S. 150B-21.3(b2).

15           **SECTION 4.(f)** Sunset. – This section expires when permanent rules adopted as  
16 required by subsection (e) of this section become effective.

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18 **MODIFY IMPLEMENTATION OF STANDARDS FOR SCREENING INMATES.**

19           **SECTION 5.(a)** Definition. – "Screening of Inmates Rule" means 10A NCAC 14J  
20 .01002 (Screening of Inmates), as adopted by the North Carolina Department of Health and  
21 Human Services on February 11, 2019, and approved by the Rules Review Commission on April  
22 18, 2019, for purposes of this section and its implementation.

23           **SECTION 5.(b)** Screening of Inmates Rule. – Until the effective date of the revised  
24 permanent rule that the Secretary of the Department of Health and Human Services (Secretary)  
25 is required to adopt pursuant to subsection (d) of this section, the Secretary shall implement the  
26 Screening of Inmates Rule, as provided in subsection (c) of this section.

27           **SECTION 5.(c)** Implementation. – The Screening of Inmates Rule shall be  
28 implemented as the "Administration of Medical Questionnaire to Inmates Rule." The Secretary  
29 shall implement the Rule to require medical personnel, mental health personnel, or officers to  
30 administer a questionnaire to each inmate upon admission to a local confinement facility, and  
31 document each inmate's answers regarding medical care needs, mental health care needs,  
32 developmental and intellectual disabilities, substance abuse disorders and risk of suicide. The  
33 questionnaire shall become part of the inmate's medical record and may be accessible by officers  
34 subject to confidentiality provisions in these rules.

35           **SECTION 5.(d)** Additional Rule-Making Authority. – The Secretary shall adopt a  
36 rule to amend the Screening of Inmates Rule consistent with subsection (c) of this section.  
37 Notwithstanding G.S. 150B-19(4), the rule adopted by the Secretary pursuant to this section shall  
38 be substantively identical to the provisions of subsection (c) of this section. Rules adopted  
39 pursuant to this section are not subject to Part 3 of Article 2A of Chapter 150B of the General  
40 Statutes. Rules adopted pursuant to this section shall become effective as provided in  
41 G.S. 150B-21.3(b1) as though 10 or more written objections had been received as a provided in  
42 G.S. 150B-21.3(b2).

43           **SECTION 5.(e)** Sunset. – This section expires when permanent rules adopted as  
44 required by subsection (d) of this section become effective.

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46           **SECTION 6.** Notwithstanding G.S. 150B-21.3, the following rules, as adopted by  
47 the North Carolina Department of Health and Human Services on February 11, 2019, and  
48 approved by the Rules Review Commission on April 18, 2019, are effective when this act  
49 becomes law:

50           10A NCAC 14J .0101 (Definitions)

1 10A NCAC 14J .0102 (Applicability – Operations and Enforcement and Incorporation by  
2 Reference)

3 10A NCAC 14J .0103 (Applicability – Construction)

4 10A NCAC 14J .0201 (Requirement for Operations Manual)

5 10A NCAC 14J .0203 (Contents of Operations Manual)

6 10A NCAC 14J .0204 (Review of Manual)

7 10A NCAC 14J .0301 (Classification System and Total Design Capacity)

8 10A NCAC 14J .0302 (Separation of Male and Female Inmates)

9 10A NCAC 14J .0303 (Confinement of Inmates Under 18 Years of Age)

10 10A NCAC 14J .0402 (Portable Fire Extinguishers)

11 10A NCAC 14J .0403 (Fire Plan, Fire Evacuation Training, and Disaster Plan)

12 10A NCAC 14J .0404 (Mattresses)

13 10A NCAC 14J .0405 (Keys)

14 10A NCAC 14J .0501 (General Security Requirements)

15 10A NCAC 14J .0601 (Supervision)

16 10A NCAC 14J .0702 (Mattresses and Bedding)

17 10A NCAC 14J .0705 (Personal Hygiene Items)

18 10A NCAC 14J .0904 (Menus)

19 10A NCAC 14J .1002 (Screening of Inmates)

20 10A NCAC 14J .1201 (Applicability – Construction)

21 10A NCAC 14J .1202 (Consultation and Technical Assistance)

22 10A NCAC 14J .1203 (Compliance Review and Approval)

23 10A NCAC 14J .1207 (Inmate Processing Area and Padded Cell)

24 10A NCAC 14J .1212 (Floors, Ceilings, and Walls)

25 10A NCAC 14J .1213 (Showers and Plumbing Fixtures)

26 10A NCAC 14J .1214 (Windows and Glazing)

27 10A NCAC 14J .1215 (Doors, Bunks, Locks, and Fasteners)

28 10A NCAC 14J .1218 (Plumbing Systems)

29 10A NCAC 14J .1219 (Electrical Systems)

30 10A NCAC 14J .1225 (Standards for Dayrooms)

31 10A NCAC 14J .1226 (Standards for Dormitories)

32 **SECTION 7.** This act is effective when it becomes law.